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| 10/848,731 | 05/19/2004 | Joost W. D. Pronk van Hoogeveen | 03226.414001; SUN040642 | 7336 |
| 32615 | 7590 | 12/13/2007 | | |
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| | | | EXAMINER WOOD, WILLIAM H | |
| | | | ART UNIT 2193 | PAPER NUMBER |
| | | | NOTIFICATION DATE 12/13/2007 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/848,731

Applicant(s)

PRONK VAN HOOGEVEEN ET AL.

Examiner

William H. Wood

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM WOOD
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/27/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-18 are pending and have been examined.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 27 December 2006 was considered by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 14 and 17 are directed toward software *per se* as the "system" claimed recites only elements of software.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent

or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-8, 14, 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by **Barritz** et al. (US 6,889,376 B1).

Claim 1

Barritz discloses a method for installing an application, comprising:

creating a zone (*column 5, lines 9-11, the current computer*);

installing the application in the zone to obtain a remote zone (*column 5, lines 9-11, software and data on the current computer*);

packaging the remote zone to obtain an application zone package (*column 5, lines 13-15, packing*); and

deploying the application zone package in a target global zone (*column 5, lines 13-15, moving to the second computer*).

Claim 2

Barritz discloses the method of claim 1, wherein installing the application in the zone comprises:

determining at least one application configuration parameter for the application (*column 1, lines 65-67*); and

configuring the remote zone using the at least one application configuration parameter (*column 1, lines 65-67*).

Claim 3

Barritz discloses the method of claim 2, wherein the at least one configuration parameter comprises a network port (*column 2, line 1-5*).

Claim 4

Barritz discloses the method of claim 2, wherein the at least one configuration parameter comprises a memory parameter (*column 2, line 1-5*).

Claim 5

Barritz discloses the method of claim 2, wherein the at least one configuration parameter comprises a user account (*column 2, line 1-5*).

Claim 6

Barritz discloses the method of claim 1, wherein packaging the remote zone comprises:

copying the remote zone to obtain a copy of the remote zone (*column 11, lines 7-11, and 20*); and

converting the copy of the remote zone into the application zone package (*column 11, lines 7-11, and 20*).

Claim 7

Barritz discloses the method of claim 6, wherein the application zone package is a self-extracting file (*column 8, line 64*).

Claim 8

Barritz discloses the method of claim 6, wherein the application zone package comprises a configuration script (*column 12, lines 23-30*).

Claims 14, 16 and 18

The limitations of claims 14, 16 and 18 correspond to the limitations of claims 1 and 7 and as such are rejected in a corresponding manner.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-13, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Barritz** et al. (US 6,889,376 B1) in view of **VMware** VirtualCenter User's Manual.

Claim 9

Barritz discloses the method of claim 1, wherein deploying the application zone package comprises:

accessing the target global zone (*as for claim 1*);
configuring a target zone (*as for claim 1*);
installing the target zone (*as for claim 1*);
unpacking the application zone package to obtain the remote zone (*as for claim 1*); and
copying a copy of the remote zone into a file space occupied by the target zone (*as for claim 1*).

Barritz did not explicitly state a non-global zone. **VMware** demonstrated that it was known at the time of invention to develop and configure non-global zones within global zones and migrate virtual machines between them (chapter

8, starting on page 139; page 204, figure). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the migration system of one remote zone to a target as in **Barritz** with targets of a non-global zone within a global zone as found in **VMware's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide migration of systems in virtual environments for the list known benefits (**VMware**: page 12, last paragraph).

Claims 10-13, 15 and 17

The limitations of claims 10-13, 15 and 17 correspond to the limitations of claims 1-9, 14, 16 and 18 and are therefore rejected in a corresponding manner.

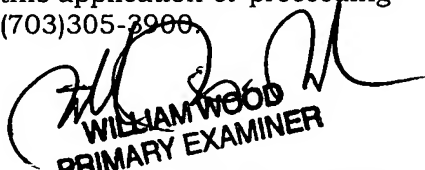
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3906.


WILLIAM WOOD
PRIMARY EXAMINER

William H. Wood
Patent Examiner
AU 2193
December 8, 2007